

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Council Members

FROM/PHONE: Bill Underwood/797-1050
Document Prepared by: Bill Underwood/797-1050

SUBJECT: Ordinance

AFFECTED DISTRICT: N/A

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN AS PROVIDED BY THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND THE FRATERNAL ORDER OF POLICE, LODGE 100; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: As the Council may be aware, certain changes to the Police Pension Plan were provided in the Collective Bargaining Agreement for the period of 2004 to 2007. That agreement provided for an increase in benefits to Police Pension members. Despite that fact, an ordinance has not been heretofore brought forward for Council's actions; audit and actuarial calculations and contributions have been and are premised on the implementing of the proposed ordinance. This office has requested a review of both the labor contract and the attached pension ordinance and we have been advised that the pension ordinance conforms to the labor contract.

As a result, we respectfully request Town Council's approval of the attached ordinance.

PREVIOUS ACTIONS: Town Council previously approved resolution number R-2005-014 on January 19, 2005.

CONCURRENCES:

FISCAL IMPACT:

Has request been budgeted? Yes

RECOMMENDATION(S): Motion to approve the ordinance.

Attachment(s):

Ordinance

Letter from Glenn Thomas

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN AS PROVIDED BY THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND THE FRATERNAL ORDER OF POLICE, LODGE 100; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie has previously adopted Ordinance 99-20 amending and restating the pension plan for sworn Police Officers;

WHEREAS, the Town of Davie Police Pension Plan is required to comply with the minimum benefit requirements of Chapter 185, Florida Statutes; and

WHEREAS, the Town has negotiated a collective bargaining agreement providing for new pension benefits for sworn Police Officers covering the period of October 1, 2004 through September 30, 2007.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, THAT:

Section 1: Section 3.1 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

3.1 Normal Retirement.

(b) Amount of Normal Retirement Benefit. Effective October 1, 2006, ~~Beginning the first full pay period in October 2003,~~ the Participant who retires on his Normal Retirement Date will receive a monthly benefit in an amount equaling the sum of (1) through (4) ~~(3)~~ as follows:

(1) Three percent of his Final Average Earnings multiplied by his whole and partial Years of Service for the first ten (10) years of service.

(2) Four percent of his Final Average Earnings multiplied by the Participant's whole and partial Years of Service for years eleven through fifteen in excess of 10 years but not in excess of 20 years of service.

(3) Five percent of Final Average Earnings multiplied by the Participant's whole and partial Years of Service for years sixteen (16) through twenty (20).

~~(3)~~ (4) Two percent of Final Average Earnings multiplied by the Participant's whole and partial Years of Service thereafter for the next ten (10) years of service.

No Participant will receive a monthly benefit greater than ~~90~~ ninety-five (95) percent of his Final Average Earnings, inclusive of prior police or military service credit purchased by the member.

Section 2: Section 4.3. b (c) of the Town of Davie Police Pension Plan is hereby amended to read as follows:

4.3.5 Benefit Calculation.

- (b) Upon commencement of DROP participation, the member will continue to accrue or be paid for sick leave, holiday leave and annual leave in accordance with the terms of the applicable provisions of a collective bargaining agreement or the Town Code if the member is not covered by a collective bargaining agreement. At the conclusion of DROP participation, the member will receive a payout for accrued leave pursuant to applicable provisions in a collective bargaining agreement or Town Code, if the member is not covered by a collective bargaining agreement.
- (c) Transfer of Accumulated Leave. DROP participants will have the option to “front load” the DROP with accumulated vacation, holiday, and sick time in excess of four hundred and eighty (480) hours as follows:

Members eligible to receive accumulated vacation time, accumulated holiday time, or accumulated sick time, which is otherwise payable only upon separation, may elect, not later than December 31st of the calendar year prior to the year of separation from service, to have the leave in excess of 480 hours transferred into the member’s DROP account. Initial eligibility to front load the DROP shall begin when a participant first becomes eligible to enter into the DROP. On an annual basis, effective September 30 of every year, DROP participants may elect to continue transferring accumulated leave balances above the 480 requirement set forth above.

For purposes of this section, the term “separation” shall mean termination of service as a police officer with the Town of Davie. The Pension Board, by rule, shall have the authority to enact administrative rules for purposes of administering the provisions of this Section, consistent with the Federal tax laws in effect on the date of transfer. No such rule shall conflict with the provisions of this Section or the IRS Code. The value of the leave transferred shall be determined in accordance with applicable personnel policies or collectively bargained agreements.

Section 3: Section 5.1 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

- (a) Death of Non-vested Participant not Resulting from Employment or not Married One Year. As soon as practicable after the date of death, the Board will refund the Employee Contributions to the named beneficiary of the Participant who dies before his Benefit Commencement Date, and either whose death the Board determines did not result from his Employment, or who does not have a surviving Spouse to whom he has been married for at least one year.
- (b) Death of Vested Participant not Resulting from Employment. In the event of the non-duty death of a vested Participant, the accrued benefit shall be payable to the surviving spouse or beneficiary on the Participant’s normal retirement date, as set forth in Section 3.1(a). At the option of the spouse or beneficiary, an actuarially reduced benefit may be

paid prior to the Participant's normal retirement date.

Section 4: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

Section 5: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: This Ordinance shall become effective immediately upon adoption, provided that the provisions of this Ordinance shall have been approved by the State.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2005

PASSED ON SECOND AND FINAL READING THIS _____ DAY OF _____, 2006

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2006

Coding: Words in stricken type are deletions from existing text.
Words in underline type are additions.



LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply To: Tallahassee

October 18, 2005

Mr. Chris Kovanes
Town Administrator
Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

Re: Proposed Police Pension Ordinance

Dear Mr. Kovanes:

This responds to a request by William Underwood to review a proposed ordinance implementing provisions of Article 40 of the Collective Bargaining Agreement between the Town and the Fraternal Order of Police (CBA). The Proposed Police Pension Plan ordinance implements provisions of the October 01, 2004 through September 30, 2007 Collective Bargaining Agreement between the Town and the FOP. We have reviewed the proposed ordinance for compliance with applicable laws of the State of Florida and the Internal Revenue Code, and compared the content of the ordinance with Article 40 of the CBA. Our conclusions follow.

Section 1 of the ordinance revises Section 3.1 of the police pension plan to increase the pension multiplier applicable to years sixteen through twenty from 4% to 5%, effective October 01, 2006. The ordinance provision correctly implements the provision in Article 40, Section 40.2(a) of the CBA. However, the language in 3.1(b)(4) of the ordinance also increases the maximum monthly benefit from 90% to 95% of average earnings, which will allow a member to retire with the maximum benefit after 20 years of service. While maximum benefit provisions are often increased in conjunction with an increased multiplier, the increase was not expressly included in the Collective Bargaining Agreement.

Section 2 of the proposed ordinance revises the benefit calculation contained in the deferred retirement option plan (DROP) by permitting participants to "front load" their DROP

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accounts with accumulated vacation, holiday, and sick time in excess of 480 hours. The section accurately implements the provisions contained in Section 40.2(c) of the CBA.

Section 3 of the proposed ordinance implements Section 40.2(b) of the CBA, which provides that the spouse or beneficiary of a vested member will receive the member's accrued benefit on the member's normal retirement date in the event of the member's non-duty related death. The ordinance correctly implements the provisions of Section 40.2(b)

In our opinion, the proposed ordinance complies with applicable state and federal law. Furthermore, the proposed ordinance appropriately implements the relevant terms of Article 40 of the Collective Bargaining Agreement.

Please call us if you have any further questions concerning these matters. With best regards, I am

Sincerely,



Glenn E. Thomas

cc: ✓ William F. Underwood, II
Budget and Finance Director
